



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

-Equal Opportunity Employer and Service Provider-

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket Number D-070723-001)

In The Matter Of:

DAVE WAYNE BLACKWELL, R.Ph.

4626 Tailfeather Court

Land O'Lakes, Florida 34639

(R.Ph. Number 03-1-24395)

INTRODUCTION

The Matter of Dave Wayne Blackwell came for hearing on August 6, 2012 before the following members of the Board: Brian M. Joyce, R.Ph. (presiding); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Kevin J. Mitchell, R.Ph. and Michael A. Moné, R.Ph.

Dave Wayne Blackwell, R.Ph., was not represented by counsel. The State of Ohio was represented by Sean M. Culley, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness:

1. Dave Wayne Blackwell, R.Ph., Respondent

Respondent's Witness:

1. Dave Wayne Blackwell, R.Ph., Respondent

State's Exhibits:

1. Petition for reinstatement letter [02-06-12]
1A-1D. Procedurals
2. Copy of Order of the State Board of Pharmacy [06-07-06]
3. Copy of Order of the State Board of Pharmacy [07-09-08]

Respondent's Exhibits:

- A. Copy of Order of the State Board of Pharmacy [07-09-08]
- B. Copy of Florida PRN Monitoring contract for Dave Wayne Blackwell [06-12-05]
- C. Copy of Order Granting Request for Termination of Probation from FBOP [06-29-10]
- D. Copy of letter from Florida PRN verifying successful completion of monitoring contract [06-18-10]
- E. Letter of character from Director of Pharmacy at current Pharmacy of employment [08-02-12]
- F. Letter from League Director of 19 Youth Sports verifying community service [03-27-12]

DECISION OF THE BOARD

After consideration of the record as a whole, the State Board of Pharmacy hereby reinstates the pharmacist identification card, No. 03-1-24395, held by Dave Wayne Blackwell to practice pharmacy in Ohio subject the following conditions:

- (A) Upon returning to work as a pharmacist in Ohio, Dave Wayne Blackwell must notify the Board of his employer and start date.
- (B) Dave Wayne Blackwell will serve a period of probation of two years beginning on the first date of active employment as a pharmacist in Ohio.
- (C) Dave Wayne Blackwell must enter into a **new** contract, signed and effective on the first day of employment as a pharmacist in Ohio, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than two years and, upon signing, submit a copy of the contract to the Board office. The contract must provide that:
 - (1) Random, **observed** urine drug screens shall be conducted at least once each month.
 - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - (2) The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - (3) Attendance is required a minimum of three times per calendar week (Sunday through Saturday), at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (D) Dave Wayne Blackwell must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:

(1) The written report and documentation provided by the treatment program pursuant to the contract, and

(2) A written description of Dave Wayne Blackwell's progress towards recovery and what Dave Wayne Blackwell has been doing during the previous three months.

(E) Other terms of probation are as follows:

(1) The State Board of Pharmacy hereby declares that Dave Wayne Blackwell's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.

(2) Dave Wayne Blackwell may not serve as a responsible pharmacist.

(3) Dave Wayne Blackwell may not destroy, assist in, or witness the destruction of controlled substances.

(4) Dave Wayne Blackwell must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.

(5) Dave Wayne Blackwell must not violate the drug laws of Ohio, any other state, or the federal government.

(6) Dave Wayne Blackwell must abide by the rules of the State Board of Pharmacy.

(7) Dave Wayne Blackwell must comply with the terms of this Order.

(8) Dave Wayne Blackwell's license is deemed not in good standing until successful completion of the probationary period.

(F) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Dave Wayne Blackwell is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

Troy Gahm moved for Action of the Board; Michael Moné seconded the motion. Motion passed (Aye-4/Nay-3).

SO ORDERED.

Dave Wayne Blackwell, R.Ph.

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Order of the Board

It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

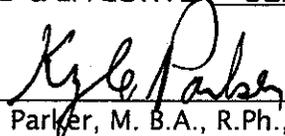
Section 119.12 of the Ohio Revised Code authorizes an appeal from this Order. An order that denied admission to an examination, or denied the issuance or renewal of a license or registration, or revoked or suspended a license, may be appealed to the court of common pleas in the Ohio county of your place of business or in your Ohio county of residence. Any other order may be appealed to the Court of Common Pleas of Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of the ORIGINAL Notice of Appeal with the State Board of Pharmacy and a copy with the appropriate court within fifteen (15) days after the mailing of this Order and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: SEPTEMBER 14, 2012

By: _____


Kyle W. Parker, M. B.A., R.Ph., Executive Director

KWP/lp

Certified Mail / Return Receipt
7005 1820 0000 0294 8208

c: Sean M. Culley, Assistant Attorney General



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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-070723-001)

In The Matter Of:

DAVE WAYNE BLACKWELL, R.Ph.
4626 Tailfeather Court
Land O'Lakes, Florida 34639
(R.Ph. No. 03-1-24395)

INTRODUCTION

THE MATTER OF DAVE WAYNE BLACKWELL CAME FOR HEARING ON JUNE 2, 2008, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: GREGORY BRAYLOCK, R.Ph. (presiding); ELIZABETH I. GREGG, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; HEATHER L. PASQUALE, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; JAMES E. TURNER, R.Ph.; AND JEROME J. WIESENHAHN, R.Ph.

DAVE WAYNE BLACKWELL WAS NOT REPRESENTED BY COUNSEL. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

None

Respondent's Witness

1. David Wayne Blackwell, R.Ph., Respondent

State's Exhibits

1. Reinstatement Hearing Request letter from Dave Blackwell, R.Ph. [07-18-07]
1A-1D. Procedurals
2. State Board of Pharmacy Order in re Dave Wayne Blackwell, R.Ph. [06-07-06]

Respondent's Exhibits

- A. Final Order, State of Florida Department of Health vs. Dave W. Blackwell, R.Ph., Case No. 2005-00455 [03-03-06]
- B. Order Granting Modification of Final Order [03-13-08]
- C. Copy of the State of Florida Department of Health Pharmacist Identification Card issued to Dave W. Blackwell [Expiration date 09-30-09]
- D-H. Five Letters of Support [05-23-08 to 05-30-08]

FINDING OF FACT

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that Dave Wayne Blackwell has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-060216-061, effective June 7, 2006.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-1-24395, held by Dave Wayne Blackwell to practice pharmacy in Ohio and places Dave Wayne Blackwell on probation for five years effective from the date his pharmacist identification card is issued, if the following conditions are not:

(A) Dave Wayne Blackwell must, upon returning to Ohio and prior to employment, enter into a new contract, signed, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) approved treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office before his pharmacist identification card is issued. The contract must provide that:

(1) Random, observed urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining four years.

(a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.

(b) Results of all drug screens must be negative. Refusal of a urine screen or a diluted urine screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.

(2) The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.

(3) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.

(4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.

(B) Dave Wayne Blackwell must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:

(1) The written report and documentation provided by the treatment program pursuant to the contract, and

(2) A written description of Dave Wayne Blackwell 's progress towards recovery and what Dave Wayne Blackwell has been doing during the previous three months.

(C) Other terms of probation are as follows:

(1) The State Board of Pharmacy hereby declares that Dave Wayne Blackwell's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.

(2) Dave Wayne Blackwell may not serve as a responsible pharmacist.

(3) Dave Wayne Blackwell may not destroy, assist in, or witness the destruction of controlled substances.

(4) Dave Wayne Blackwell must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.

(5) Dave Wayne Blackwell must not violate the drug laws of Ohio, any other state, or the federal government.

(6) Dave Wayne Blackwell must abide by the rules of the State Board of Pharmacy.

(7) Dave Wayne Blackwell must comply with the terms of this Order.

(8) Dave Wayne Blackwell's license is deemed not in good standing until successful completion of the probationary period.

(D) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Dave Wayne Blackwell is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-5/Nay-2).

MOTION CARRIED.

SO ORDERED.

It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

DAVE WAYNE BLACKWELL, R.Ph.

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Order of the Board

Section 119.12 of the Ohio Revised Code authorizes an appeal from this Order. An order that denied admission to an examination, or denied the issuance or renewal of a license or registration, or revoked or suspended a license, may be appealed to the court of common pleas in the Ohio county of your place of business or in your Ohio county of residence. Any other order may be appealed to the Court of Common Pleas of Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of the ORIGINAL Notice of Appeal with the State Board of Pharmacy and a copy with the appropriate court within fifteen (15) days after the mailing of this Order and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: JULY 9, 2008

By: _____
William T. Winsley, M.S., R.Ph., Executive Director

WTW/lf

CERTIFIED MAIL/Return Receipt
7004 2510 0006 9804 4899

c: Sally Ann Steuk, Assistant Attorney General



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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-060216-061)

In The Matter Of:

DAVE WAYNE BLACKWELL, R.Ph.

4626 Tailfeather Court

Land O Lakes, Florida 34639

(R.Ph. No. 03-1-24395)

INTRODUCTION

THE MATTER OF DAVE WAYNE BLACKWELL CAME FOR CONSIDERATION ON MAY 8, 2006, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE R. EASTMAN, R.Ph. (presiding); ROBERT P. GIACALONE, R.Ph.; ELIZABETH I. GREGG, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; AND JAMES E. TURNER, R.Ph.

DAVE WAYNE BLACKWELL WAS NOT PRESENT NOR WAS HE REPRESENTED BY COUNSEL. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witness

1. Timothy J. Benedict, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses

None

State's Exhibits

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [02-16-06]
 - 1A. Procedural
2. Renewal Application for Pharmacist License of Dave Wayne Blackwell [11-15-05]; Letter from Dave Blackwell, R.Ph. [not dated]; Letter from Joseph Molea, M.D. to Richard Rocha [05-26-05]
3. Wal Mart Stores, Inc. Investigative Report [03-16-06]; Drug Inventory Report [05-01-04 to 01-06-05]
4. Hillsborough County Sheriff's Department Criminal Report Affidavit/Notice to Appear [01-07-05]
5. Information, State of Florida v. David W. Blackwell, Case No. 05-CF-000449, Hillsborough County Thirteenth Circuit Judicial Circuit [01-25-05]; Judgment and Sentence [06-16-05]; Mandatory Costs in all Cases [06-16-05]; Order of Community Supervision [06-16-05]

6. Settlement Agreement, State of Florida Department of Health vs. Dave W. Blackwell, R.Ph., Case No. 2005-00455 [01-30-06]

Respondent's Exhibits

- A. Two letters from Dave Blackwell [03-20-06]; Final Order, State of Florida Department of Health vs. Dave W. Blackwell, R.Ph., Case No. 2005-00455 [02-27-06]; Letter from Debra Troupe, MS, CAP [04-03-06]

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the Board of Pharmacy indicate that Dave Wayne Blackwell was originally licensed by the State of Ohio as a pharmacist on October 25, 2000, pursuant to examination, and that his license was summarily suspended on February 16, 2006.
- (2) On or about June 16, 2005, Dave Wayne Blackwell pled guilty to one count of Trafficking in Illegal Drugs, a criminal offense equivalent to a felony drug abuse offense under Section 2925.03 of the Ohio Revised Code. State of Florida v. David W. Blackwell, Case No. 05-CF-000449, Hillsborough County Circuit Court.
- (3) Dave Wayne Blackwell was, on or about January 30, 2006, disciplined by the Florida State Board of Pharmacy.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Dave Wayne Blackwell on February 16, 2006.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy takes the following actions in the matter of Dave Wayne Blackwell:

(A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-1-24395, held by Dave Wayne Blackwell and such suspension is effective as of the date of the mailing of this Order.

(1) Dave Wayne Blackwell, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

(2) Dave Wayne Blackwell, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

(B) Further, the Board will consider reinstatement provided that Dave Wayne Blackwell personally appears before the State Board of Pharmacy to show Dave Wayne Blackwell's fitness to practice pharmacy.

Upon such time as the Board may consider reinstatement, Dave Wayne Blackwell will be afforded a Chapter 119. hearing. At such time, the Board may consider reinstatement with or without restrictions and/or conditions as the Board deems appropriate under the circumstances.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-5/Nay-0).

MOTION CARRIED.

SO ORDERED.

It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

Section 119.12 of the Ohio Revised Code authorizes an appeal from this Order. An order that denied admission to an examination, or denied the issuance or renewal of a license or registration, or revoked or suspended a license, may be appealed to the court of common pleas in the Ohio county of your place of business or in your Ohio county of residence. Any other order may be appealed to the Court of Common Pleas of Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of a Notice of Appeal with both the State Board of Pharmacy and the

DAVE WAYNE BLACKWELL, R.Ph.

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Order of the Board

appropriate court within fifteen (15) days after the mailing of this Order and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: JUNE 7, 2006

CERTIFIED MAIL/Return Receipt
7003 0500 0002 4340 7599

WTW/If

By: _____

William T. Winsley, M.S., R.Ph., Executive Director

cc: Sally Ann Steuk, Assistant Attorney General